

Acts to Protect Names of Designated Agricultural, Forestry and Fishery Products and Foodstuffs (Summary)

Dr. Hisako NOMURA
Lecturer
Faculty of Agriculture
Kyushu University
6-10-1, Hakozaki, Higashi-ku,
Fukuoka 812-8581
Japan

Purpose

The Japanese government enacts Geographical Indication (GI) protection legislation which registers agricultural, forestry and fishery products and foodstuffs that own their tradition and specificity attributed to the geographical area and own brand names which are connected and designated to the origin as intellectual property of the State.

Summary of the legislation

Registration

1. With respect to agricultural products and foodstuffs that are originally produced and own their specificity such as quality attributed to the geographical area (called Designated Agricultural, Forestry and Fishery Products and Foodstuffs), groups of such products' producers and processors* who have capacity to carry out the production process and quality management can apply for designations of origin and GI to the Minister of the Ministry of Agriculture, Forestry and Fishery (MAFF). (Article 6)
2. Groups of producers and processors attach the statement which provides the detailed statement of the production of origin, the production method and the specificity as well as the specified production process management. (Article 7)
3. The Minister of MAFF needs to announce the application summary of 1) and accept submission of public comments from the third party as well as have consultation with experts with specialized knowledge and experience, and then determines the registration. (Article 8 to 14)

(* Groups of producers and processors and several groups can be registered under the same application.)

Protection of the name of the registered Designated Agricultural, Forestry and Fishery Products and Foodstuffs

1. The member of the producers' group registered in (1) can attach the GI on the Designated Agricultural, Forestry and Fishery Products and Foodstuffs which are produced according to the detailed statement or on the package. (Article 3 (1))
2. When the member of the producers' group GI according to ①, the GI mark that indicates as registered GI will be accompanied and attached (Article 4 (1)).
3. Anyone else except the case of ① and ② cannot attach GI or the GI mark to Agricultural, Forestry and Fishery Products and Foodstuffs or to its package. (Article 3 (2), Article 4 (2))
4. The Minister of MAFF can order to remove GI or the GI mark, or similar indication or mark. (Article 5)
5. Penal provisions are imposed to the illicit use of GI and the GI mark. (Article 28, Article 29)

Enforcement Date

1. The date designated by a government ordinance within a year after the issuing date (Supplementary provision 1)

Date submitted: June 9, 2015

Reviewed, edited and uploaded: June 9, 2015

- Regional brands face some issues in quality control and managing infringements
- The trademark system which the government takes charge of registering the name of the product, has difficulties in solving those issues

Issues of Regional Brands

- Brand value has not increased due to no **unified quality of standard**

- Example of a product
 - Production started from the 1970s
 - Due to a boom, the name of the region name became well-known, but **quality standards varied vastly among producers**, and the **low quality products are decreasing the evaluation by the consumers**.
 - Authorization stickers were established by the local community and promoted by producer groups through their websites, but are not very effective in eliminating the low quality products.

- **Free riding on brands**

- Example of a product
 - Production started from the 1960s
 - Due to the unsuitable soil conditions of volcanic ash soil, compost from livestock had been utilized to improve fertility of the soil to raise quality. It gathered nation-wide fame, but **substandard products used the name and were free riding the fame of the brand**.
 - Regional municipalities, together with the agricultural cooperative are currently considering countermeasures.

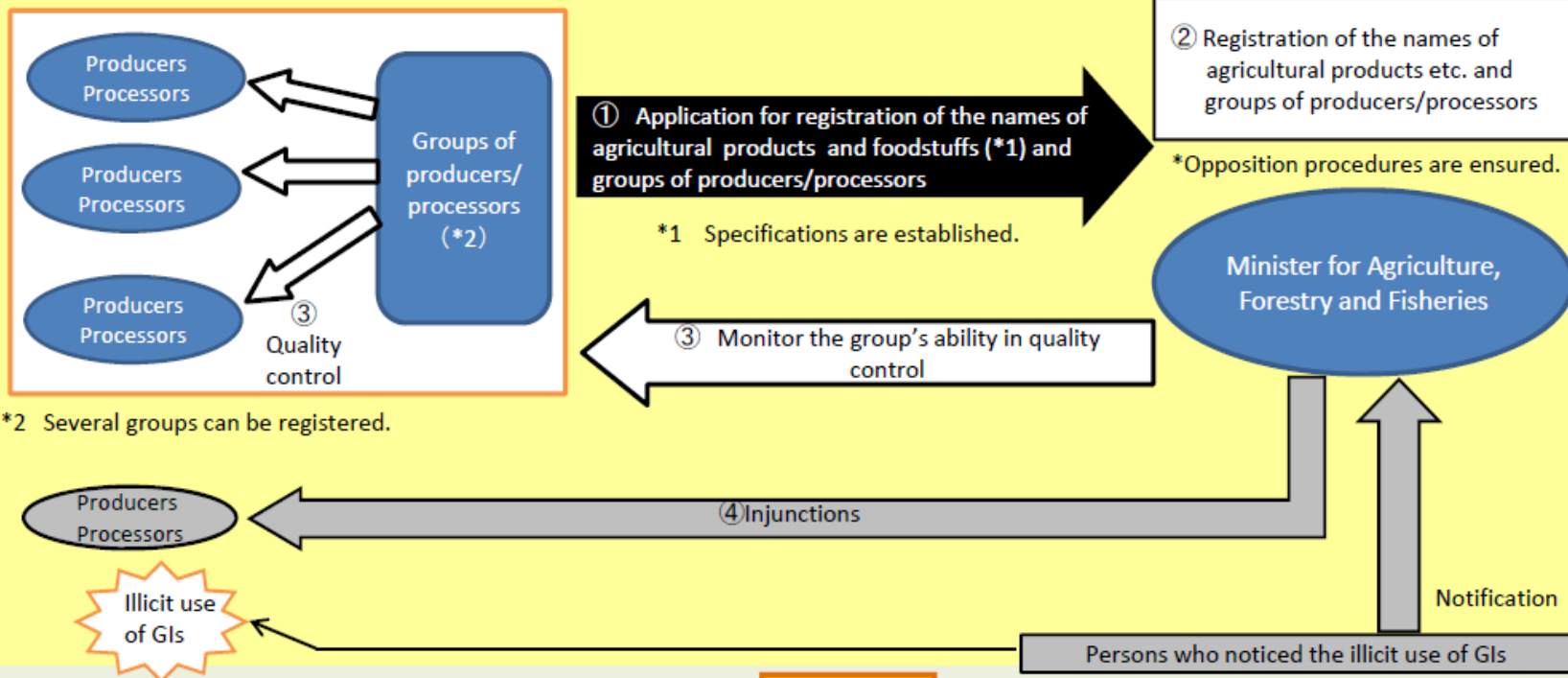
Trademark System

- Efforts to secure the quality of products is merely voluntary under the trademark system, and **cannot be made institutionally liable for quality**

- Trademark rights are private rights and infringements must be **dealt with independently**. There are limitations to the actions that can be taken by agricultural, forestry, and fishery producers.

Need to establish a new system to overcome the issues

○ For the purpose of establishing GI protection system in Japan, the “Act for Protection of Names of Designated Agricultural, Forestry and Fishery Products and Foodstuffs” was enacted in June 2014.



*2 Several groups can be registered.

Objectives

① Protecting the **Producer's** interests (Intellectual Property of the region)
 Adequate evaluation of agricultural, forestry and fishery products and foodstuffs, and retain and increase the value inherent in those products

② Protecting the **Consumer's** interests
 Protect the authenticity of the high value added agricultural, forestry and fishery products and foodstuffs and secure demand